

**ASSEMBLY BILL**

**No. 237**

**Introduced by Assembly Member Arambula**

February 7, 2005

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An act to amend Section 50517.5 of the Health and Safety Code, relating to housing, declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 237, as introduced, Arambula. Farmworker housing.

Existing law requires the Department of Housing and Community Development to establish the Joe Serna, Jr. Farmworker Housing Grant Program under which grants or loans are made to local public entities, nonprofit corporations, and limited partnerships for the construction or rehabilitation of housing for agricultural employees and their families.

Existing law authorizes the loan of funds to a grantee at no more than 3 percent simple interest upon request of a grantee, and requires that grants and loans be matched by the grantee with at least equal amounts of federal moneys, other cash investments, or in-kind contribution.

This bill would authorize the department to forgive a loan if it determines forgiveness is necessary to the financing or continued viability of housing pursuant to this program. The bill would also authorize the department to waive the matching requirement for migrant housing funded by specified bond funds if the department finds that the waiver is necessary to ensure the housing can be financed.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 50517.5 of the Health and Safety Code  
2     is amended to read:  
3     50517.5. (a) (1) The department shall establish the Joe  
4     Serna, Jr. Farmworker Housing Grant Program under which,  
5     subject to the availability of funds therefor, grants or loans, or  
6     both, shall be made to local public entities, nonprofit  
7     corporations, and limited partnerships, for the construction or  
8     rehabilitation of housing for agricultural employees and their  
9     families or for the acquisition of manufactured housing as part of  
10    a program to address and remedy the impacts of current and  
11    potential displacement of farmworker families from existing  
12    labor camps, mobilehome parks, or other housing. Under this  
13    program, grants or loans, or both, may also be made for the cost  
14    of acquiring the land and any building thereon in connection with  
15    housing assisted pursuant to this section and for the construction  
16    and rehabilitation of related support facilities necessary to the  
17    housing. In its administration of this program, the department  
18    shall disburse grants or loans, or both, to the local public entities,  
19    nonprofit corporations, or limited partnerships or may, at the  
20    request of the local public entity, nonprofit corporation, or  
21    limited partnership that sponsors and supervises the rehabilitation  
22    or construction program, disburse grant funds to agricultural  
23    employees who are participants in a rehabilitation or construction  
24    program sponsored and supervised by the local public entity,  
25    nonprofit corporation, or limited partnership. No part of a grant  
26    or loan made pursuant to this section may be used for project  
27    organization or planning.  
28    (2) Notwithstanding any other provision of this chapter, upon  
29    the request of a grantee the program also may loan funds to a  
30    grantee at no more than 3 percent simple interest. Principal and  
31    accumulated interest is due and payable upon completion of the  
32    term of the loan. For any loan made pursuant to this subdivision,  
33    the performance requirements of the lien shall remain in effect  
34    for a period of no less than the original term of the loan. *A loan*  
35    *may be forgiven if the department determines that forgiveness of*

*the loan is necessary to the financing or continued viability of housing made available pursuant to the program.*

(3) The program shall be administered by the Director of Housing and Community Development and officers and employees of the department as he or she may designate.

(b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for making grants or loans, or both, pursuant to this section and Section 50517.10, for purposes of Chapter 8.5 (commencing with Section 50710), and for costs incurred by the department in administering these programs.

(2) There shall be paid into the fund the following:

(A) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(B) Any moneys that the department receives in repayment or return of grants or loans from the fund, including any interest therefrom.

(C) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(D) All moneys appropriated to the department for the purposes of Chapter 8.5 (commencing with Section 50710) and any moneys received by the department from the occupants of housing or shelter provided pursuant to Chapter 8.5 (commencing with Section 50710). These moneys shall be separately accounted for from the other moneys deposited in the fund.

(c) (1) Grants and loans made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.

(2) For grant or loan requests of not more than five hundred thousand dollars (\$500,000), the department may waive a part of the matching fund requirement in this subdivision if the grantee demonstrates an inability, as may be established by the department in "Notices of Funding Availability," to secure adequate financing from other sources. Not more than 5 percent of the total amount appropriated to the department for the purposes of this section may be used to meet grant or loan

1 requests in which a part of the matching fund requirement has  
2 been waived pursuant to this paragraph.

3 (3) *For migrant housing funding pursuant to subparagraph*  
4 *(A) of paragraph (4) of subdivision (a) of Section 53533, the*  
5 *department may waive the matching fund requirement if it finds*  
6 *that a waiver is necessary to ensure the housing can be financed.*

7 (d) With respect to the supervision of grantees, the department  
8 shall do the following:

9 (1) Establish minimum capital reserves to be maintained by  
10 grantees.

11 (2) Fix and alter from time to time a schedule of rents that may  
12 be necessary to provide residents of housing assisted pursuant to  
13 this section with affordable rents to the extent consistent with the  
14 maintenance of the financial integrity of the housing project. No  
15 grantee shall increase the rent on any unit constructed or  
16 rehabilitated with the assistance of funds provided pursuant to  
17 this section without the prior permission of the department,  
18 which shall be given only if the grantee affirmatively  
19 demonstrates that the increase is required to defray necessary  
20 operating costs or avoid jeopardizing the fiscal integrity of the  
21 housing project.

22 (3) Determine standards for, and control selection by grantees  
23 of, tenants and subsequent purchasers of housing constructed or  
24 rehabilitated with the assistance of funds provided pursuant to  
25 this section.

26 (4) (A) Require as a condition precedent to a grant or loan, or  
27 both, of funds that the applicant have site control that is  
28 satisfactory to the department; that the grantee be record owner  
29 in fee of the assisted real property or provide other security  
30 including a lien on the manufactured home that is satisfactory to  
31 the department to ensure compliance with the construction,  
32 financial, and program obligations; and that the grantee shall  
33 have entered into a written agreement with the department  
34 binding upon the grantee and successors in interest to the grantee.  
35 The agreement shall include the conditions under which the  
36 funds advanced may be repaid. The agreement shall include  
37 provisions for a lien on the assisted real property or  
38 manufactured home in favor of the State of California for the  
39 purpose of securing performance of the agreement. The  
40 agreement shall also provide that the lien shall endure until

1 released by the Director of Housing and Community  
2 Development.

3 (B) In the event that funds granted or loaned pursuant to this  
4 section constitute less than 25 percent of the total development  
5 cost or value, whichever is applicable, of a project assisted under  
6 this section, the department may adopt, by regulation, criteria for  
7 determining the number of units in a project to which the  
8 restrictions on occupancy contained in the agreement apply. In  
9 no event may these regulations provide for the application of the  
10 agreement to a percentage of units in a project that is less than  
11 the percentage of total development costs that funds granted or  
12 loaned pursuant to this section represent.

13 (C) Contemporaneously with the disbursement of the initial  
14 funds to a grantee, the department shall cause to be recorded, in  
15 the office of the county recorder of the county in which the  
16 assisted real property is located, a notice of lien executed by the  
17 Director of Housing and Community Development. The notice of  
18 lien shall refer to the agreement required by this paragraph for  
19 which it secures and it shall include a legal description of the  
20 assisted real property that is subject to the lien. The notice of lien  
21 shall be indexed by the recorder in the Grantor Index to the name  
22 of the grantee and in the Grantee Index to the name of the State  
23 of California, Department of Housing and Community  
24 Development. For manufactured housing, the liens shall be  
25 recorded by the department in the same manner as other  
26 manufactured housing liens are recorded. The department shall  
27 adopt by regulation criteria for the determination of the lien  
28 period. This regulation shall take into account whether the  
29 property is held by multifamily rental, single-family ownership,  
30 or cooperative ownership and whether it is new construction or  
31 rehabilitative construction. The lien period for manufactured  
32 housing liens for manufactured homes shall not exceed 10 years.

33 (D) Pursuant to regulations adopted by the department, the  
34 department may execute and cause to be recorded in the office of  
35 the recorder of the county in which a notice of lien has been  
36 recorded, or the department, as appropriate, a subordination of  
37 the lien. The regulations adopted by the department shall provide  
38 that any subordination of the lien shall not jeopardize the security  
39 interest of the state and shall further the interest of farmworker  
40 housing. The recitals contained in the subordination shall be

1 conclusive in favor of any bona fide purchaser or lender relying  
2 thereon.

3 (E) Prior to funds granted pursuant to this section being used  
4 to finance the acquisition of a manufactured home, the grantee  
5 shall ensure that the home either is already installed in a location  
6 where it will be occupied by the eligible household or that a  
7 location has been leased or otherwise made available for the  
8 manufactured home to be occupied by the eligible household.

9 (5) Regulate the terms of occupancy agreements or resale  
10 controls, to be used in housing assisted pursuant to this section.

11 (6) Provide linguistically appropriate services and  
12 publications, or require grantees to do so, as necessary to  
13 implement the purposes of this section.

14 (7) The agreement between the department and the grantee  
15 shall provide, among other things, that both of the following  
16 occur:

17 (A) Upon the sale or conveyance of the real property, or any  
18 part thereof, for use other than for agricultural employee  
19 occupancy, the grantee or its successors shall, as a condition for  
20 the release of the lien provided pursuant to paragraph (4), repay  
21 to the fund the department's grant and loan funds.

22 (B) Upon the sale or conveyance of the real property or any  
23 part thereof for continued agricultural employee occupancy, the  
24 transferee shall assume the obligation of the transferor and the  
25 real property shall be transferred to the new owner; provided that  
26 the transferee agrees to abide by the agreement entered into  
27 between the transferor and the department and that the new  
28 owner takes the property subject to the lien provided pursuant to  
29 paragraph (4), except that this lien shall, at the time of the  
30 transfer of the property to the new owner, be extended for an  
31 additional lien period determined by the department pursuant to  
32 paragraph (4), and the new owner shall not be credited with the  
33 lien period that had run from the time the transferor had acquired  
34 the property to the time of transfer to the new owner, unless the  
35 department determines that it is in the best interest of the state  
36 and consistent with the intent of this section to so credit the lien  
37 period to the new owner. However, the lien shall have priority as  
38 of the recording date of the lien for the original grantee, pursuant  
39 to paragraph (4).

1 (e) The department may do any of the following with respect  
2 to grantees:

3 (1) Through its agents or employees enter upon and inspect the  
4 lands, buildings, and equipment of a grantee, including books  
5 and records, at any time before, during, or after construction or  
6 rehabilitation of units assisted pursuant to this section. However,  
7 there shall be no entry or inspection of any unit that is occupied,  
8 whether or not any occupant is actually present, without the  
9 consent of the occupant.

10 (2) Supervise the operation and maintenance of any housing  
11 assisted pursuant to this section and order repairs as may be  
12 necessary to protect the public interest or the health, safety, or  
13 welfare of occupants of the housing.

14 (f) The department shall include in its annual report required  
15 by Section 50408, a current report of the Joe Serna, Jr.  
16 Farmworker Housing Grant Program. The report shall include,  
17 but need not be limited to, (1) the number of households assisted,  
18 (2) the average income of households assisted and the  
19 distribution of annual incomes among assisted households, (3)  
20 the rents paid by households assisted, (4) the number and amount  
21 of grants or loans, or both, made to each grantee in the preceding  
22 year, (5) the dollar value of funding derived from sources other  
23 than the state for each project receiving a grant or loan, or both,  
24 under this section, and an identification of each source, (6)  
25 recommendations, as needed, to improve operations of the  
26 program and respecting the desirability of extending its  
27 application to other groups in rural areas identified by the  
28 department as having special need for state housing assistance,  
29 and (7) the number of manufactured housing units assisted under  
30 this section.

31 (g) As used in this section:

32 (1) "Agricultural employee" has the same meaning as  
33 specified in subdivision (b) of Section 1140.4 of the Labor Code,  
34 but also includes any person who works at a packing shed for a  
35 labor contractor or other entity that contracts with an agricultural  
36 employer in order to perform services in connection with  
37 handling, drying, packing, or storing any agricultural commodity  
38 in its raw or natural state, whether or not this person is  
39 encompassed within the definition specified in subdivision (b) of  
40 Section 1140.4 of the Labor Code.

(2) “Grantee” means the local public entity, nonprofit corporation, or limited partnership that is awarded the grant or loan, or both, under this section, and, at the request thereof, may include an agricultural employee receiving direct payment of a grant for rehabilitation under this section who occupies the assisted housing both before and after the rehabilitation and may include an agricultural employee receiving direct payment of a grant for construction under this section who will occupy the assisted housing and who is a participant in a rehabilitation or construction program sponsored and supervised by a local public entity, nonprofit corporation, or limited partnership.

(3) “Housing” may include, but is not necessarily limited to, conventionally constructed units and manufactured housing installed pursuant to either Section 18551 or 18613.

(4) “Limited partnership” means a limited partnership where all of the general partners are nonprofit mutual or public benefit corporations.

(h) The department may provide the assistance offered pursuant to this chapter in any area where there is a substantial unmet need for farmworker housing.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make immediate changes in the requirements of the Joe Serna, Jr. Farmworker Housing Grant Program to ensure that migrant housing will be build and that the money for that purpose will not revert to other uses, it is necessary that this act take effect immediately.

CORRECTIONS:

Digest-Vote Key-page 2.